

MEMORANDUM

TO: State Employees

FROM: Con Whipple
Department of Human Resource Management

DATE: July 19, 1999

SUBJECT: Response to Public Hearing on Sick Leave Incentive Rule (R477-8-7(6))

On July 7th, 1999 the Department of Human Resource Management (DHRM) held a hearing concerning proposed changes to rule R477-8-7(6), Sick Leave Incentive. This hearing was held at the request of state employees who were protesting; 1) the deduction of 480 hours from their sick leave accounts at the time of retirement and 2) the payment schedule adopted by DHRM for the purchase of health insurance and Medicare supplement insurance.

The information presented at the hearing was given to the DHRM management team and to the Attorney General's office for review. At the completion of this review and after consultation with legal counsel, DHRM concludes that no compelling reason was presented to change the proposed wording of the rule. Therefore, the appropriate forms were filed to make the rule effective on the 19th of July 1999.

The rationale for our conclusion on the 480 hour deduction comes down to one point; it is required by law. Section 67-19-14(2)(c)(i) as amended by SB 25 states "An employee whose unused sick leave, after the 25% cashout has been paid, exceeds the 60 days maximum for five-year coverage under Subsection (2)(b), may continue the health and life insurance, which the employee had at the time of retirement, at the rate of one month's coverage for each day of unused sick leave above the 60 days...." It is evident from this wording that an employee may only take advantage of this benefit if he has more than 60 days of sick leave accrual at retirement and after the cashout.

This is consistent with the historical application of this section. Prior to 1998, a retiring employee had to meet two criteria in order to purchase additional life insurance with accrued sick leave. First, he had to be under 60 years of age, and second, his sick leave balance after the 25% cashout had to be more than 60 days (480 hours). The employee could then use any hours in excess of the 60 days. In practice, 480 hours was simply subtracted from the employees account and the remainder used to purchase the desired insurance. This is how the law was applied in DHRM rule, Division of Finance fiscal policies, and by legislative staff whenever a fiscal note was calculated on a bill with impact on this section. This is also consistent with legal analysis conducted by the Attorney General's Office. The passage of SB 138 in 1998

and SB 25 in 1999 changed the program in several important and beneficial ways for employees but neither addressed the 480 hour deduction. Senate bill 138 extended the purchase of insurance benefit to a spouse and provided for the purchase of Medicare supplement. Senate bill 25 extended the benefit to all retiring employees, not just those under age 60. This conclusion contradicts an analysis presented by an employee in the hearing which suggested that the code really obligates DHRM to make rules insuring that all unused sick leave is available to retiring employees. .

It was also suggested in communication following the hearing that 480 hours should only be deducted from employees who retire prior to age 60. This is consistent with practice prior to the passage of SB 25. However, the primary purpose of SB 25 was to remove all age qualifications. There is no longer a distinction in the law between those who retire before or after age 60.

Employees protested the payment schedule specified in rule which requires that eight hours of sick leave be surrendered for one month of coverage for each policy purchased. This means that if the employee purchases a PEHP policy and a Medicare supplement policy or two Medicare supplement policies (one himself and one for a spouse) 16 hours of sick leave will be surrendered. The rational for our conclusion on this issue is based on calculations which suggest that employees are getting more than actual value for their sick leave hours. For example, the most recent annual report from the Utah State Retirement Board states that the final average salary of an employee retiring in 1998 was \$33,993. This equates to an hourly wage of \$16.28 which means that eight hours of sick leave for the average retiring employee is worth \$130.24. In return for these eight hours, the state will pay \$162 a month for the high option Medicare supplement insurance for one person, \$177.86 a month for PEHP single coverage and \$366.77 a month for PEHP two party coverage. Combining these figures with the three possible scenarios for a retiring employee reveals that in each case, the employee receives good value for the surrendered sick leave.

- 1 - A retiring employee and spouse both under age 65 may purchase PEHP two party coverage. For one month of coverage, the employee surrenders 8 hours of sick leave valued at \$130.24 and receives \$366.77 in health care benefits.
- 2 - A retiring employee over age 65 with a spouse under age 65 may purchase a Medicare supplement for himself and PEHP single party coverage for a spouse. For one month of coverage, the employee will surrender 16 hours of sick leave valued at \$260.48 and receive \$339.86 in health care benefits.
- 3 - A retiring employee over age 65 with a spouse also over age 65 may purchase a Medicare supplement for both. For one month of coverage, the employee will surrender 16 hours of sick leave valued at \$260.48 and in return receive \$324 in health care benefits.